

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MICHAEL J. WANG,

Plaintiff,

-against-

MEMORANDUM AND ORDER

05-CV-0845(JS)(ARL)

05-CV-1862(JS)(ARL)

OFFICE OF PROFESSIONAL MEDICAL
CONDUCT NEW YORK STATE DEPARTMENT
OF HEALTH, EDUCATION COMMISSION FOR
FOREIGN MEDICAL GRADUATES,

Defendants.

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APPEARANCES:

For Plaintiff:

Michael J. Wang, pro se
4 Chester Street
South Setauket, New York 11720

For Defendants:

Office of Professional
Medical Health Conduct:

Toni E. Logue, Esq.
NYS Attorney General's Office
200 Old Country Road, Suite 460
Mineola, New York 11501

Education Commission
For Foreign Medical
Graduates:

Michael J. Puma, Esq.
Morgan, Lewis & Buckius LLP
101 Park Avenue
New York, New York 10178

SEYBERT, District Judge:

On February 23, 2006, this Court granted the Defendants' motions to dismiss in the matter with docket number 05-CV-1852. On June 6, 2006, this Court granted the Defendants' motion to dismiss in the matter with docket number 05-CV-845. The Court gave Plaintiff time to file an amended complaint in both cases. Plaintiff did not file an amended complaint in either case, and the Clerk of the Court closed the matters. Plaintiff then appealed

both cases to the Second Circuit.

On March 28, 2007, the Second Circuit issued a mandate, affirming in part and vacating in part this Court's Orders of dismissal. The mandate was filed in the matters above on April 30, 2007. The Second Circuit remanded the cases to this Court to specifically address the following: (1) whether Plaintiff's New York constitutional due process claim suffices under the State's "more flexible" state action requirement, (2) whether Plaintiff had a property interest in his certification for purposes of his New York constitutional due process claim, and (3) whether Defendant Office of Professional Medical Conduct enjoys sovereign immunity from Plaintiff's Section 1981, federal constitutional, state constitutional, and state law claims.

Accordingly, the Court orders the parties to submit memoranda of law regarding the three issues stated above within thirty (30) days from the date of this Order. Opposition papers must be filed within ten (10) days after the initial memoranda are filed, and any replies must be filed within five (5) days after the opposition papers are filed.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: Central Islip, New York
May 10, 2007